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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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In the Matter of

Implementation of the Local Competition
Provisions in the Telecommunications Act of 1996

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CC Docket No. 96-98
FCC 96-182

May 16, 1996

**COMMENTS OF THE AMERICAN FOUNDATION FOR THE BLIND ON THE NOTICE
OF PROPOSED RULEMAKING REGARDING IMPLEMENTATION OF THE LOCAL
COMPETITION PROVISIONS IN THE TELECOMMUNICATIONS ACT OF 1996**

To the Commission:

The American Foundation for the Blind is pleased to have this opportunity to respond to the April 25 Federal Register Notice of Proposed Rulemaking implementing the local competition provisions in the Telecommunications Act of 1996 (CC Docket 96-98, FCC 96-182).

The mission of the American Foundation for the Blind is to enable persons who are blind or visually impaired to achieve equality of access and opportunity that will ensure the freedom of choice in their lives. AFB accomplishes this mission by taking a national leadership role in the development and implementation of public policy and legislation, informational and educational programs, and quality services. AFB staff were highly involved in efforts to advocate for specific provision in the Telecommunications Act of 1996 to ensure access to telecommunications technology for people with disabilities.

We provide comments in response to the following sections and paragraphs as cited in the NPRM.

D. Duties Imposed on "Telecommunications Carriers" by Section 251(a)

Paragraph 249 The Commission seeks comment on action the commission might take "to ensure compliance with the obligations established in section 251(a)(2), which directs telecommunications carriers "not to install network features, functions, or capabilities that do not comply with the guidelines or standards established pursuant to section 255 or 256." What steps, if any, should the commission take to make carriers aware of the standards adopted pursuant to sections 255 and 256, and of the periodic revisions to these standards? How should the phrase "network features, functions or capabilities" be defined, and what is meant by "installing" such network features?"

Response Sec. 255 of the Telecommunications Act of 1996 requires manufacturers of telecommunications equipment or customer premises equipment, and providers of telecommunications services to ensure that the equipment and services are accessible to and usable by persons with disabilities, if readily achievable. Sec. 251(a)(2) places on each telecommunications carrier a duty "not to install network features, functions or capabilities that do not comply with the guidelines and standards established pursuant to Section 255 or 256." To put it another way, telecommunications carriers are prevented from installing features, functions or capabilities in their networks that cannot be accessed and used by persons with disabilities. Carriers have a duty to ensure that their telecommunications networks are not a conduit for the transportation of services or connection of telecommunications equipment or CPE that do not meet accessibility and usability requirements for people with disabilities.

The phrase "features, functions and capabilities" is not well defined in the statute. It is incorporated into the definition of Network Element at Sec. 3(a)(2)(45) of the Act

"NETWORK ELEMENT.--The term network element means a facility or equipment used in the provision of a telecommunications services. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provisions of a telecommunications service."

In the absence of more prescriptive language, this phrase should be interpreted broadly in order to prevent circumvention of the intent of Sec. 255. For example, the device connection protocols and interface deployed in a telecommunications network seem to be covered by the phrase "features, functions and capabilities." Thus, the connection of a telecommunications device into a network must not be deployed in a way which limits access for an individual with a disability. Services deployed within a network such as speech-to-text or text-to-speech should also be considered a "feature"

Likewise, the statutory reference to "install" suggests a broad view. Any service deployed by a telecommunications carrier, or by a provider connecting to a telecommunications network and intended for use by the public or classes of the public should be considered an installation of "features, functions or capabilities."

Finally, we believe that the Commission has an obligation to provide guidance and information periodically regarding access for people with disabilities to those entities covered by the requirements of Sec. 251(a) and Secs. 255 and 256. The Commission must also ensure that it has information collection procedures in place to enable it to conduct proper guidance and monitoring of entities regarding the manner in which they meet their general obligations under these statutory sections to provide equal access and nondiscriminatory interconnection restrictions and obligations.

Justification Telecommunications platforms are increasingly both open to a variety of providers and converging across modalities: wires and radio waves. As a matter of fairness and equity, we believe Congress intended Sec. 251(a)(2) to focus on access to the services and capabilities

available from telecommunications networks. Because that paragraph references Secs. 255 and 256 of the Act, we believe that Congress sought to address the needs of individuals with disabilities. Accordingly, "features, functions and capabilities" must be viewed in the context of consumer services and "install" must refer to the concept of offering or making a feature, function or capability available to the public or classes of the public, especially those whose access might be hindered by a disabling condition such as impaired vision, hearing, motor functions, or memory etc. In this way, a level playing field is created where any provider of a telecommunications network ensures that the services and architecture of that network comply with the public interest in promoting access by all sectors of the public as envisioned under Secs. 255 and 256 of the Act.

Paragraphs 245 and 246 The Commission notes that a "telecommunications carrier" is defined in section 3(44) as "any provider of telecommunications services and "We therefore tentatively conclude that, to the extent that a carrier is engaged in providing for a fee local, interexchange, or international basic services, directly to the public or to such classes of users as to be effectively available directly to the public, that carrier falls within the definition of 'telecommunications carrier.'" Comment is requested regarding which carriers should be included under this definition, and on "whether a provider may qualify as a telecommunications carrier for some purposes but not others."

Response In order to promote equal competition and advance the public interest requirements included in Sec. 251(a), particularly access by consumers with disabilities, telecommunications carrier must be defined to encompass any provider of access to any network available to the public, or classes of users, for the transmission of voice, data and video communications. In short, regardless of the nature of the exchange, all providers of telecommunications networks meant for use by the public should play by the same rules for interconnection and accessibility to consumers, including people with disabilities.

Justification The revolution in software and convergence across diverse networks requires this broadened view of the term telecommunications carrier. Increasingly, a wide variety of information appliances can access diverse telecommunications networks to access features on an as needed basis. (For example, a voice message spoken into a telephone connected to the traditional copper network can be converted into data and displayed on a wireless PCS device.) Much of the additional software and switching capability resides in the network creating a so-called smart network that allows users to "rent" "features, functions and capabilities" for specific tasks as needed. The convergence of networks and the software revolution means that telecommunications carriers as network providers will, for competitive purposes, find it necessary to deploy systems which are capable of changing the form and content of a transmission and route it through several points in order to meet the consumer's need for highly-tailored services. This means that telecommunications will almost by necessity involve changes to the form and content of a transmission routed over pathways transparent to the user.

H. Advanced Telecommunications Capabilities

Paragraph 263 The Commission seeks comment on "how we can advance Congress' subsections 706 (a) goal within the context of our implementation of Sections 251 and 252 of the 1996 Act."

Response Section 706 "Advanced Telecommunications Incentives" describes a range of possible regulatory methods that remove barriers to infrastructure investment. Such methods need to pass two tests in order to promote competition. First, does such a method allow an incumbent local exchange carrier (LEC) to bypass the interconnection requirements of this Act? Second, does the incentive assure that incumbent LECs will be compensated for the costs of providing the interconnection and for upgrades to the telecommunications infrastructure.

Justification Congress has accurately built a structure for regulating competition on the basis of interconnection requirements to the public switched network. This notice accurately expands the architecture of this structure. As we have noted in our response to questions regarding the definition of telecommunications carrier the revolution in software and convergence in development and deployment of hardware will drive advanced telecommunications capabilities. However, the current and upgraded networks of the LECs will be a major support for these capabilities. Innovation, expansion, and deployment of new technology are worthy and attainable goals. If the Act's well drawn regulatory processes for requiring interconnection and maintenance of universal service are allowed to be overpowered by the so-called market forces of advanced technology, we will have done nothing but create a new system of telecommunications redlining for people with disabilities.

Respectfully Submitted,

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